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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 27.01.2020

+ RC.REV. 242/2017

ZUBIAR

..... Petitioner

versus

AMIRUDDIN

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. S.S. Ahluwalia and Mr. Mohit, Advocates

For the Respondent: Mr. Rahul Kapoor, Advocate

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 18.01.2017, whereby eviction petition filed by the petitioner has been dismissed and eviction order passed.

2. Subject eviction petition was filed by the respondent seeking eviction of the petitioner on the ground of bonafide necessity under Section 14(1) (e) of the Delhi Rent Control Act, 1958 in respect of tenanted premises i.e. one room along with bathroom and toilet on the second floor of property bearing No. 2335, Gali Dugdugi Shah, Turkman Gate, Delhi, more particularly as shown in red colour in the

site plan annexed with the eviction petition (*Ex. PW1/1*).

3. The contention of the respondent-landlord in the eviction petition was that the family of the respondent-landlord is very large and is dependent upon the respondent. It is contended that the two sons of the respondent are major and are likely to be married very soon. Besides this there are other school going children who required study room.

4. The need was expressed for accommodating the respondent and his family who were dependent upon him for the purposes of residence. It was contended that besides the said property he has no other accommodation in his possession. Further the contention of the respondent had been that son of respondent was using three rooms on the ground floor as a godown for storing handicrafts.

5. Rent Controller in the eviction petition has noticed that respondent has 11 family members out of which two daughters had got married but they used to visit the respondent from time to time along with their families. Besides, two married daughters, family of respondent comprises of nine family members out of which two sons were married and there were also school going children.

6. With regard to the contention of the respondent that three rooms on the ground floor which were being used as godown storing articles belonging to the business of son of the respondent, during trial a Local Commissioner was appointed to inspect the said property.

7. Local Commissioner has given a report that no commercial activity was being carried out in the three rooms. The photographs filed by the Local Commissioner showed that though some articles were kept on the ground floor portion but the ground floor were not full of handicraft articles as contended by the respondent.

8. Based on the report of the Local Commissioner, Rent Controller came to the conclusion that the three rooms on the ground floor were not being used for commercial purposes and were available to the respondent for residential purposes.

9. The Rent Controller held that even if three rooms on the ground floor were taken into account, there were only four more rooms available for the Respondent. Three on the first floor and one room on the second floor.

10. Accordingly, Rent Controller came to the conclusion that only seven rooms were available to the respondent and his family of nine members, besides the two married daughters of the respondent, who used to visit the respondent from time to time. Based on this, Rent Controller came to the conclusion that the accommodation in possession of the respondent was short and accordingly plea of the respondent that he bonafidely required the tenanted premises for his as well as his family residence was found to be genuine.

11. Learned counsel for the petitioner has not been able to show that besides those seven rooms, which the Rent Controller has held are

available, that there is any other accommodation available to the respondent. Petitioner has also not been able to dispute the number of family members of the respondent.

12. The only arguments raised by the learned counsel for the petitioner that respondent had incorrectly stated that the rooms on the ground floor were being used for commercial purposes.

13. Perusal of the report of the Local Commissioner shows that Local Commissioner has annexed photographs of the ground floor portion, which show storage of several articles lying on the ground floor. The Local Commissioner report contends that no commercial activity is seen on the ground floor, however, there is no dispute that there were articles kept on the ground floor which were relating to the business of the son of the respondent.

14. Be that as it may, even if three rooms on the ground floor are available to the respondent, said three rooms taken in conjunction with the four others rooms would still not satisfy the need of the respondent and his family comprising of nine members, for the purpose of their residence.

15. Petitioner has not been able to show that the finding returned by the Rent Controller that accommodation available with the respondent is short and does not satisfy the need of the entire family is erroneous. Even otherwise the site plan of the property shows that the sizes of some of the available rooms is about 8 x 8 ft.

16. Petitioner has not been able to show any infirmity in the view taken by the Rent Controller in returning the finding that the need as expressed by the respondent is bonafide or that there is any other suitable alternative accommodation available with the respondent.

17. I find no infirmity in the view taken by the Rent Controller and any merit in the petition.

18. For the purposes of record, it may also be noticed that respondent had already executed the order and received possession of the tenanted premises through warrants of possession on 26.4.2017.

19. The petition is accordingly dismissed.

20. Order *dasti* under signatures of the Court Master.

JANUARY 27, 2020
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SANJEEV SACHDEVA, J